

# CITY OF KUNA PLANNING & ZONING COMMISSION

## MEETING MINUTES Tuesday, October 8, 2019

PZ COMMISSION MEMBER	PRESENT	CITY STAFF PRESENT:	PRESENT
Chairman Lee Young	X	Wendy Howell, Planning Director	X
Commissioner Dana Hennis	X	Troy Behunin, Senior Planner	N/A
Commissioner Cathy Gealy	Absent	Jace Hellman, Planner II	N/A
Commissioner Stephen Damron	X	Sam Weiger, Planner I	X
Commissioner John Laraway	X	Doug Hanson, Planner I	X

### 6:00 pm – COMMISSION MEETING

Chairman Young called the meeting to order at 6:00 pm.

### Call to Order and Roll Call

#### 1. CONSENT AGENDA

**Meeting Minutes** for September 24, 2019.

**Findings of Fact and Conclusions of Law** for 19-25-DR (Design Review) & 19-13-SN (Sign)

**Findings of Fact and Conclusions of Law** for 18-33-DR-A (Design Review) & 18-17-SN-A (Sign)

*Commissioner Damron Motions to approve the consent agenda; Commissioner Laraway Seconds, all aye and motion carried 3-0.*

#### 2. NEW BUSINESS

**19-26-DR (Design Review) & 19-11-SN (Sign)** - Select Development & Contacting, LLC requests approval of design review for an approximately 1,610 square-foot clubhouse, playground, pool and monument sign, within Lugarno Terra Subdivision located on E. Deer Flat Rd, Kuna, Idaho 83634. (APN: S1418346610)

**Doug Hanson:** Good evening Mr. Chairman, members of the commission. For the record, Doug Hanson Kuna Planning and Zoning Staff, 751 W. 4<sup>th</sup> St. Kuna, ID 83634. Billy Edwards requests approval of design review for an approximately 1,610 square foot clubhouse, playground, pool, and monument sign within Lugarno Terra Subdivision located at E. Deer Flat Rd. Staff has determined that this application complies with Title 5 of Kuna City Code and Idaho Code. With that I will stand for any questions you may have, thank you. **C/Young:** Any questions? **C/Damron:** I have no questions. **C/Young:** Have the applicant come forward and state your name and address for the record. **Billy Edwards:** Billy Edwards, Select Development, 1501 E. State Ave. Ste 210, Meridian, ID 83642. Commission members as Doug says we are proposing a clubhouse within the already approved Lugarno Terra Subdivision now under construction. It is 1,610 square feet of conditioned area which includes a community room approximates 20x30, it also includes our realtor office with back rooms for use on the facility. Of the back of the clubhouse we have approximately 1,200 square foot of covered seating area that is adjacent to our pool area. The pool area is encompassed by a wrought iron fence with secure entry and out for our residents of Lugarno Terra, approximately 114 lots there have been approved awhile back, so I will stand for any questions you might have. **C/Young:** Any questions at this time? **C/Damron:** None at this time. **C/Young:** This brings up our discussion. The sign fits in with the building. I have no issues with anything with the sign itself. The same for the building itself, the materials are good in relation to roof. Everything looks good with the elevations and the site plan with the amenities on the other side of the lot for the subdivision and the tot lot and those items. I don't have any issues with anything. **C/Damron:** Just a question on that, is this considered a commercial property or residential as its owned by the HOA? **Wendy Howell:** I don't know that it is considered either, it's open space but as you said the HOA owns it. **C/Damron:** The

# CITY OF KUNA PLANNING & ZONING COMMISSION

## MEETING MINUTES Tuesday, October 8, 2019

reasons for my concern would be the real estate office, commercial within residential. **Wendy Howell:** After they have sold the majority of the homes that are built it will be removed.

*Commissioner Damron motions to approve Case No. 19-26-DR and 19-11-SN with the conditions as outlined in the staff report; Commissioner Laraway seconds, all aye and motion carried 2-0.*

### 3. PUBLIC HEARING

**19-02-OA (Ordinance Amendment)** – Open Space and fencing; An ordinance of the City Council of Kuna, Idaho, Amending Kuna City Code (KCC) to:

- MAKING CERTAIN FINDINGS; AND
- REPEALING SECTION 20, ARTICLE A, CHAPTER 2, TITLE 4 AND RENUMBERING THE REMAINING SECTIONS; AND
- AMENDING SUBSECTION 2 OF SECTION 6, CHAPTER 1, TITLE 5 MAKING A TECHNICAL CORRECTION TO THE DEFINITION OF "OPEN SPACE"; AND
- AMENDING PART 8 OF SUBSECTION C, SECTION 5, CHAPTER 5, TITLE 5, MAKING A TECHNICAL CORRECTION REGARDING THE MEASURE OF FENCE HEIGHT; AND
- REPEALING SECTION 4, CHAPTER 6, TITLE 5 AND RENUMBERING THE REMAINING SECTIONS OF SAID SECTION; AND
- AMENDING SECTIONS 4, 5, 6, 7, 8, AND 9, CHAPTER 6, TITLE 5 TO REDESIGNATE THESE SECTIONS; AND
- AMENDING SECTIONS 2, 4, 6, 10, 12, AND 20, CHAPTER 17, TITLE 5 MAKING TECHNICAL CHANGES TO DESIGN REQUIREMENTS AND ADDING REQUIREMENTS FOR RESIDENTIAL OPEN SPACE; AND
- AMENDING SECTION 2, CHAPTER 4, TITLE 6, PROVIDING FOR A CHANGE IN THE TEXT DESIGNATION FOR DEFINITIONS UPON WHICH CITY STAFF CAN RELY AND MAKING A TECHNICAL CORRECTION REGARDING THE MEASURE OF FENCE HEIGHT AND LOCATION OF FENCING; AND
- PROVIDING A SEVERABILITY CLAUSE; AND
- DIRECTING THE CITY CLERK; AND
- PROVIDING AN EFFECTIVE DATE.

**Wendy Howell:** You have all seen this before, from the last ordinance we had some complaints from developers not being able to understand how to come up with the percentages for open space so we went through and did it differently. **C/Damron:** Is there a way that we can within the ordinance make the open space readily accessible? **Wendy Howell:** For the public? **C/Damron:** No, readily accessible for the residents? If they have development, for instance if there a piece of property that develops and there are the railroad tracks and across the railroad tracks is the open space to be accessed, to me that is not a safe access point for somebody. Or if there is an irrigation ditch or something like that, is there a way that we can make within that ordinance say that open space must be readily accessible without dangerous obstacles to preclude them from using it on a readily available basis? **Wendy Howell:** Generally, when we review the subdivision plat and it is discussed in great length. In the case that the obstacle is fairly close, there will be a fence that keeps the kids and adults within the park area. Are you thinking about trying to place it more centrally? **C/Damron:** What I am trying to say is if you have a piece of property that the borderline is cut by the railroad tracks or by the river, then across that is the open space for the property. **Wendy Howell:** Generally, that is not going to happen, if it's across the *\*\*inaudible\*\** you would need to negotiate that with our park's director. **C/Damron:** But if the developers are not going to do that is there a way that we can write the ordinance so that we could deny approval because of the safety factor of the public or rather housing development to get to that public space. **Wendy Howell:** We could, but we don't want to write it so that we are so strict that we discourage creative development. **C/Laraway:** Remember a couple of weeks ago where there was that property at the end of Ardell and the common area was on the other side of the creek with no access from the subdivision, they had to go down the greenbelt into another subdivision to get over a bridge. Is that the connectivity we are talking

# CITY OF KUNA PLANNING & ZONING COMMISSION

## MEETING MINUTES Tuesday, October 8, 2019

about? **Wendy Howell:** The creek is a flood area so a footbridge will be unable to be placed in every subdivision to access the other side. They would have to compromise. The foot bridge wasn't that far away. Typically, if property is along Indian Creek it is going to be on our Pathways Master Plan which will be dedicated and maintained by the City. **C/Young:** In that particular case that you are referencing the space just to the south of the parcel or the piece of land that was on the far side of the railroad is going to be a future park. **C/Damron:** So, the park and that piece of property are going to merge? How is the City since there is an area of responsibility that belongs to the HOA then the City? Inevitably the HOA is responsible for that piece of property to cut the grass and everything in it. **Wendy Howell:** Not necessarily, if the land belongs to the City our parks department takes care of it. **C/Damron:** Then is it still considered property of the HOA? **Wendy Howell:** Not when it is dedicated to the City. **C/Young:** Since there was an agreement with the City and HOA as part of the staff's conditions of approval then they would work together in that respect. **Wendy Howell:** It could be if there is a continuation of it, so that it is not just that piece. The City may have negotiated that the HOA maintain it until there is connectivity to another area so staff does not need to be sent out for a single area of grass to be cut. **C/Damron:** Playing devil's advocate on that, the builder is building on this piece of property with that inclusive of the property as far as how many houses per acre we zone that as the complete property, that determines the open space. Pretty soon the City takes over that and that's no longer open space. **Wendy Howell:** It is because it is designated a park. **C/Damron:** But it will be dedicated to the City so it is the City's property after that? **Wendy Howell:** It is the City's property after that, but it is still included in the open space. Parks can be dedicated to the City and be counted toward there open space. **C/Laraway:** Now, that piece of property, is it accessible by road? **Wendy Howell:** Are you talking about the one that is across the creek? **C/Laraway:** For first responders, how would they get there? **Wendy Howell:** The property hasn't been planned that far yet. **C/Laraway:** If the City Parks are there what access do we have to those pieces of property? **Wendy Howell:** When it is developed it will be figured out. **C/Laraway:** Are we hoping that some development comes from the west side? **Wendy Howell:** Bobby Withrow the Parks Director is in charge of those things, such as access and planning parks. The proper time to ask those questions is when it is in front of you, how emergency services will have access and at that point they should be able to. **C/Young:** Let the record show that Commissioner Hennis is here at 6:27 pm. Does that answer your questions? **C/Damron:** Mostly, my main concern is looking at the future and the amount of people that are moving in if we have properties that are within an obstacle region such as Indian Creek, a developer will come in buy properties one side and on the other and make open space over here. We design the subdivision say with 5 acres with R-20. So, there are 3 acres on the other side, we have 2 acres on this side and they build that R-20 on 2 acres. **Wendy Howell:** That's not always how it happens. A lot of times they prefer to have open space centralized, but once we see an opportunity to fulfill our master plans, that's when we let the Park Director know to get into contact with the developer and let them know what the requirements are. The other side they wanted to just give that to the City, they didn't want to deal with it. **C/Damron:** I just don't want developers to take advantage of the situation when they read the ordinance and say they can do that with this and put it all over here and then dedicate it to the City so they can get a huge tax write off on it for financial gains. Using our ordinances against us in a situation like that when they find a piece of property that has some kind of obstacle that can't be overcome. **Wendy Howell:** I don't see that being used against us and can be played out in our favor, as it adds amenities to the overall system. **C/Damron:** It does, I can see that and we will end up getting more park from that, but I look at it on the other side when these are coming through for approval we look at a chunk of property that is 3 acres, an acre and a half or 2 acres are cut on the other side of some obstacle may it be a highway, river, or creek and they will build all on one side and eventually dedicate the other side as open space and the City gains. But if there is a 5 acre project of split property, when we approve something like that we are not really visualizing, or rather the public is not seeing it the same way that we do. There could be stacked houses on one side and the city gets the other half of the property, they look at us and go why did you even put that in there? Even when they were approved for so many houses per acre and they have 5 acres to build on so they built 100 houses on two acres. **Wendy Howell:** That is why questions need to be asked at the preliminary plat stage. We see the site plan and or preliminary plat, in some cases the landscape plan to see how they are developing the area. **C/Damron:** What I am trying to get at is if we do this the right way that would give us a reason to say we can't do this because you have too much open here

# CITY OF KUNA PLANNING & ZONING COMMISSION

## MEETING MINUTES Tuesday, October 8, 2019

and there is nothing across. It doesn't give us any leeway if we pass this like it is, there is nothing we can say to deny them because of the way that the ordinance is written. If we can have a reason to say that doesn't work so that they can't just use that land to meet whatever value we require on it. I'm just afraid that we will get somebody in here that will say we can't deny 30 houses on a half-acre or acre because we are utilizing this other 3 that's on the other side of something, then we are unable to tell them no. **Wendy Howell:** I understand what you are saying, I don't one hundred percent agree because I have the advantage of seeing everything that happens throughout the planning process. In the pre-application meeting we have all of the directors, public works, parks, fire, the chief of police, the school district, the project manager, sometimes multiple planners, sometimes me depending on how big the project is, and the city engineer. I see all of the discussions back and forth and the negotiations that take place, so I don't necessarily feel the same way that you do, but I understand what you are saying. **C/Hennis:** So, in other words, there is a lot of preemptive work that would prevent this. **Wendy Howell:** Right, let's say it wasn't on our master plan and that's not what we want, we will say that you have to do this or move this over here, you need to create pathways in the subdivision for people that live in there and they can figure out what to do with it. These conversations happen before they ever get through to the planning commission. **C/Damron:** Ok, I see what you are saying, I just wanted to see if possible, there was a way that we could give ourselves a reason to deny, maybe if it didn't match the continuity of the neighborhood structure. **Wendy Howell:** Yes, if something like that comes though and its not on the master plan you can question it at that point. It's up to staff to provide you with information if it is on our master pathways plan and you can ask about access and get it clear on the record. **C/Young:** A quick recap for Commissioner Hennis. **Wendy Howell:** The reason that you are seeing this back before you is because we had a handful of developers that could not understand how to compute the percentage of the open space required, thus we now have a large table to answer questions and make it easy for them, as well as for staff. I have not taken this to Council yet because once those concerns were brought to me between the P and Z and the Council hearings, I knew that it had to be brought back here to be heard because it would be a significant change. **C/Young:** With the percentages listed, the total percentage of open space that includes areas of open space and planters and things like that that are required, does that count for the City? **Wendy Howell:** The definition for open space, in the areas substantially open to the site that may be on the same block as a building, the area may include the natural environmental features, water areas, swimming pools, and other recreational facilities that the Planning and Zoning Commission deems permissible. This excludes parking areas, buffers, endcaps, and the like shall not be included. **C/Young:** Ok so they are separate, this is what they have to use for an amenity. I think that we have definitely cleared things up for both sides. It makes it very clear for the developers to see their percentage, they don't have to battle with the grey area. **C/Hennis:** I just remember that we had one recently that was part of the conditions that the open space next to, not in the center. **Wendy Howell:** Any other questions for me? **C/Young:** No, thank you. I think that it's a good change as long as those buffers and areas we mentioned are not included. **C/Hennis:** I don't know what was so hard about the numbers before, they were fine but it makes it easier, I didn't see anything in here that was concerning they are just making everything to be that much more understandable, we have seen how the vagueness can be used against us. This also allows us a tool to be used against them too at times.

*Commissioner Damron motions to recommend approval of Case No. 19-02-OA; Commissioner Laraway seconds, all aye and motion carried 3-0.*

#### 4. COMMISSION REPORTS

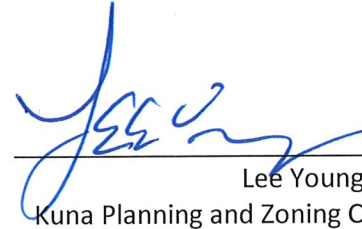
#### 5. ADJOURNMENT

*Commissioner Hennis motions to adjourn; Commissioner Laraway Seconds, all aye and motion carried 3-0.*

**CITY OF KUNA  
PLANNING & ZONING COMMISSION**

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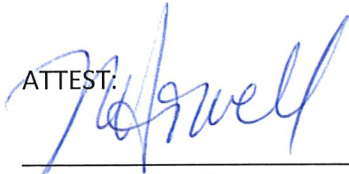
**MEETING MINUTES  
Tuesday, October 8, 2019**



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Lee Young, Chairman  
Kuna Planning and Zoning Commission

ATTEST:



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Wendy I. Howell, Planning and Zoning Director  
Kuna Planning and Zoning Department